IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

WP(C).No. 12342 of 2007(T)

PETITIONER:

JAYASREE, W/O. K.S.ANIL,
KOMALAZHIKATHU HOUSE, MANNADY, ADOOR TALUK,
PATHANAMTHITTA.

BY ADV. SRI.P.P.JACOB
SRI.N.T.SATHYAVAN

RESPONDENTS:

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1. PATHANAMTHITTA DISTRICT CO-OPERATIVE BANK LTD., PATHANAMTHITTA, REP. BY ITS GENERAL MANAGER.

2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), PATHANAMTHITTA, PART TIME ADMINISTRATOR, PATHANAMTHITTA DISTRICT CO-OP. BANK LTD.

3. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, THIRUVANANTHAPURAM.

BY ADV. SRI.P.C.SASIDHARAN, SC
SHRI.P.N.SANTHOSH, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 12342 of 2007 T

Dated, this the 12th day of April, 2007

J U D G M E N T

This WP(C) is filed for direction to 2nd respondent to release loan to the petitioner without requirement of production of prior documents for the property being mortgaged. Petitioner and her husband produced settlement deed executed by petitioner's father-in-law in favour of petitioner and her husband, original of which is being surrendered to the 1st respondent towards security along with mortgage deed. However, loan is not released because the prior document, i.e. the document conferring title on petitioner's father-in-law, is not produced. Petitioner's case is that prior title deed is a partition deed and the said document is not with petitioner's father-in-law. I do not think non-production of prior document affects the mortgage being created by petitioner along with her husband, if original settlement deed in favour of petitioner and her husband along with encumbrance certificate and possession certificate are produced and if petitioner's father-in-law is also made a party to the document as a mortgagor. In the circumstance, WP(C) is accordingly disposed of directing 1st respondent to release loan to

the petitioner accepting mortgage deed executed by petitioner along with her husband along with production of original settlement deed in their favour and encumbrance certificate and possession certificates issued by Village Officer along with tax receipt. Petitioner's father-in-law also will join along with petitioner's for execution of document.

This WP(C) is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg